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Media Release
November 29, 2011

Biden Calls On Federal Government to Crack Down on Deceptive Marketing of Dangerous “Binge-in-a-Can” Alcohol Drinks

WILMINGTON – Delaware Attorney General Beau Biden and Attorneys General in 34 other states recently asked the Federal Trade Commission to impose stringent marketing guidelines on super-sized alcohol drinks. The Attorneys General, along with the San Francisco City Attorney, want the FTC to take action as part of a proposed settlement with Phusion Projects LLC, the maker of the flavored malt beverage “Four Loko,” which is 12% alcohol by volume and is packaged in 23.5-ounce cans.

Because the drink is so high in alcohol compared to a single beer, and comes in a container much larger than a typical beer can or bottle, the FTC believes Phusion’s marketing of these super-sized drinks as single servings – i.e., as if they can be safely consumed on a single occasion – is misleading because one container contains the alcohol equivalent of almost five beers. Drinking one can of Four Loko is often referred to as a “binge-in-a-can” because it equals a dangerous “binge drinking” episode.

“This product has proven to be dangerous to consumers, and deceptive marketing has hidden its true impact on those who drink it,” Biden said. “The FTC is taking a step in the right direction but should go even further to protect the public.”

The FTC has charged Phusion with violating federal law by making false or misleading representations that a 23.5 ounce can of Four Loko can be safely consumed on a single occasion and by failing to disclose the number of alcohol servings in one can. To resolve these charges, the proposed settlement requires, for containers with more than two and a half servings of alcohol, that Phusion disclose on the label the equivalent number of regular beers and make the containers resealable so the drinks do not have to be consumed all at once.

Biden and his colleagues praised the FTC for acting but believe the commission should do even more to address the safety risks posed by the drinks and to ensure consumers are not deceived by the labeling on Four Loko bottles.

Among the additional steps Biden urged the FTC to take include:

- Limiting the number of alcohol servings per can to two standard drinks because the label disclosure and resealability to do not eliminate binge-drinking risks. The proposed FTC settlement does not limit the servings per can.

- If the FTC does not limit the number of servings per can, it should impose the disclosure and resealability requirements to cans with at least 2 servings of alcohol, instead of the proposed 2.5.
- Enlisting public health experts to study the impact of its new requirements, particularly on young persons, since the settlement would make Four Loko the first and only alcoholic beverage to display the number of servings.
- Better defining what constitutes a resealable can and strengthening proposed prohibitions on Four Loko running ads that show the drink being consumed directly from the can;

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